

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8361 of 2020

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Vikash Kumar Gupta @ Vikash Gupta S/o Hanuman Prasad, Resident of Maya Bazar South Gate, Kotwali Road, P.S.-Kharaar, District-Gorakhpur, Uttar Pardesh.

... .. Petitioner/s

Versus

1. State of Bihar, through Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Collector-Cum-District-Magistrate, Buxar.
3. The Superintendent of Excise, Buxar.
4. The Superintendent of Police, Buxar.
5. The Station House Officer, Buxar Town Police Station, District-Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Vardhan, Adv
For the Respondent/s : Mr. Vikash Kumar SC-11

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 09-10-2020

Heard learned counsel for the petitioner and learned

counsel for the respondents.

Petitioner has prayed for the following relief:-

"(I) For issuance of writ in the nature of Mandamus or any other appropriate writ(s), order(s), directions to the respondent authorities to release the vehicle of the petitioner bearing registration no. UP-53DH-2526 Hundai Creta Car having Chasis No. MALC281RLKM-559809 and Engine No. D4FCKM-760571 which was seized by the Sub-Inspector of Buxar Town PS in Buxar Town PS Case No. 187 of 2020 registered for offence under Sections 30(a), 37(2) of the Bihar Prohibition and Excise Act, 2016.



II. For quashing of the impugned order dated 25.08.2020 passed by the court of the ADJ-II cum Special Judge (Excise), Buxar, by which petition for release of petitioner's above mentioned vehicle was rejected."

Informant is a police officer who in his written complaint has alleged that on 14.05.2020 while he was on vehicle checking duty along with other police personnel, he saw one Hyundai Creta Car coming which was stopped with the help of police party. Two persons were sitting in the car who were found in a drunken condition. Thereafter the car was searched and from the dickey of the Car 750 ML illicit foreign liquor was recovered. Accordingly, the aforesaid car and illicit liquor was seized and both persons who were found sitting in the aforesaid car were apprehended giving rise to Buxar Town PS Case No. 187 of 2020 registered for offence punishable under Sections 30(a), 37(2) of the Bihar Prohibition and Excise Act, 2016.

As seized Car was used in transportation of illicit liquor, same is liable for confiscation under Section 56 of the Excise Act.

It is submitted that confiscation case being Confiscation Case No. 120 of 2020 has been initiated by the District Magistrate, Buxar, however, no final order has been passed in the confiscation case and car has been kept in an open space unattended in police station.



The writ petition is disposed of with a direction to the **District Collector/Confiscating Officer, Buxar** to pass final order in the confiscation case within 90 days from the date of receipt/production of copy of order passed by this Court, if show cause has already been filed, or within 90 days from the date of filing of show cause, failing which District Magistrate, Buxar shall provisionally release the vehicle of petitioner after due identification of ownership of the vehicle and on production of ownership and registration with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period. The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required. Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be



used as a secondary evidence.

(ii) The petitioner shall furnish an undertaking not to challenge the said Panchanama.

(iii) The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to finalization of the confiscation proceeding.

With the aforesaid observation, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

